

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1177 Patient Handling and Moving Practices
SPONSOR(S): Roberson and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 2244

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Health Care Regulation Committee		Bell	Mitchell
2) Elder & Long-Term Care Committee			
3) Health Care Appropriations Committee			
4) Health & Families Council			
5) _____			

SUMMARY ANALYSIS

HB 1177 address staff back injuries in hospitals and nursing homes. According to the Bureau of Labor Statistics, nursing personnel are consistently listed as one of the top ten occupations for work-related musculoskeletal disorders, with incident rates of 8.8 per 100 in hospital settings and 13.5 in nursing home settings.¹

The bill requires that nursing homes and hospitals develop a program to adopt and implement safe patient handling and moving practices. The program requirements include:

- Establishment of a safe patient handling and moving committee to implement a minimal lift program in the facility;
- Education of staff on back injuries;
- Acquisition of equipment that aids lifting; and
- Development of procedures that allow a nurse to refuse patient handling because the nurse believes it will result in injury.

The bill authorizes the Agency for Health Care Administration to develop rules to require compliance by January 1, 2007.

According to the Agency for Health Care Administration (AHCA) the total expenditures for the first year will be \$65,269 and \$62,659 for the second year.

The effective date of the bill is July 1, 2006.

¹ 2002.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government – The bill increases the Agency for Health Care Administration's regulatory oversight of safe patient handling and lifting practices in nursing homes and hospitals. The estimated fiscal impact of the bill is \$65,269 in the first year and \$62,659 in the second year.

B. EFFECT OF PROPOSED CHANGES:

HB 1177 creates s. 381.029, F.S., to require hospitals and nursing homes to develop a program to adopt and implement safe patient handling and moving practices. The program requires hospitals and nursing homes to:

- Establish a safe patient handling and moving committee to implement a minimal lifting program in the facility;
- Analyze the risk of injury to patients and staff posed by handling and moving of patients and the physical environment in which the moving occurs;
- Educate staff on back injuries and alternative ways to reduce risks;
- Establish a program that eliminates manual lifting;
- Acquire equipment that aids lifting;
- Develop procedures that allow a nurse to refuse a patient handling or moving task because the nurse believes he or she will pose the patient or themselves to an unacceptable risk of injury; and
- Report annually to the governing body of the facility on the identification, assessment, and development of strategies to control risk of injury to patients and staff associated with the program.

The bill also requires facilities to publish their lift policy and plan, and the results of an annual evaluation that uses data analysis to measure the success of the program. The policy must be submitted to the Agency for Health Care Administration (AHCA).

The bill requires that a hospital or nursing home may not penalize, discriminate against, or retaliate in any manner against an employee if such employee reports a suspected violation, participates in an investigation, or discusses suspected violations with any other employee, patient or public.

The bill authorizes AHCA to develop rules to require compliance with the bill by January 1, 2007.

The effective date of the bill is July 1, 2006.

CURRENT SITUATION

Hospitals licensed under ch. 395, F.S., have requirements for nursing services, functional safety, and plans submission. Section 59A-3.2085(5)(d), Florida Administrative Code (F.A.C.) requires that each hospital must develop written standards of nursing practice and related policies and procedures to define and describe the scope and conduct of patient care provided by the nursing staff.

Currently there are no requirements for specific policies and procedures for patient handling and moving in hospitals. Section 59A-3.277, F.A.C., requires each hospital to have a hospital safety committee to adopt, implement and monitor a comprehensive, hospital-wide safety program. The program must adopt written policies and procedures to enhance the safety of the hospital, its personnel and patients.

Section 59A-3.080, F.A.C., states that no construction work, including demolition, shall be started until written approval has been given by the Agency's Office of Plans and Construction. This includes all construction of new facilities and any and all additions, modifications or renovations to existing facilities. Presently, any remodeling plans for the purpose of incorporating patient handling and moving equipment would have to be submitted to the Office of Plans and Construction for approval.

Currently, most hospitals and nursing homes have voluntarily adopted additional programming to prevent injury to personnel who move patients. Hospitals and nursing homes are responsible for paying worker's compensation claims and paying for temporary help when staff is unavailable because of injury.

BACKGROUND

Health Care Injury

According to the Bureau of Labor Statistics nursing personnel are consistently listed as one of the top ten occupations for work-related musculoskeletal disorders, with incident rates of 8.8 per 100 in hospital settings and 13.5 per 100 in nursing home settings.² The Occupational Safety and Health Administration (OSHA) reports that most health care industries report more injuries than other high risk industries, such as construction. Nursing aides, orderlies, and attendants have a risk of lost workday injuries and illnesses about 3.5 times that of the average private industry worker. The most common injury is various forms of back injury. The U.S. Department of Labor reports that nursing, psychiatric, and home health aides are especially susceptible to lifting injuries, because mechanical lifting devices available in some institutional settings are seldom available in the home care setting.

The National Institute for Occupational Safety and Health (NIOSH) is currently developing safe patient handling and movement principles. NIOSH, Centers for Disease Control (CDC) and many other national organizations have developed a model for protecting the safety and health of health care workers.

Challenges to Patient Lifting

Patient handling and movement tasks are physically demanding, performed under unfavorable conditions, and are often unpredictable in nature. Patients offer multiple challenges including variation in size, physical disabilities, cognitive function, level of cooperation, and fluctuations in condition. As a load to be lifted, patients lack the convenience of handles and even distribution of weight, and have been known to be combative during the lifting process. One study has estimated that the cumulative weight lifted by a nurse in a typical 8-hour shift is equivalent to 1.8 tons.³ Lifting patients is also challenging because patient lifts are often accomplished in awkward positions such as bending or reaching over beds or chairs while a nurse's back is flexed.⁴

Costs of Back Injury

Back injury can result in days away from work, expensive rehabilitation costs, surgery, and a change in career. The estimated cost to treat a back strain is \$4,000 and back surgery costs around \$25,000. Indirect costs related to lost production, retraining, and sick or administration time is estimated to be at least four times that of direct costs.⁵

² 2002.

³ Tuohy-Main, K. (1997) Why manual handling should be eliminated for resident and career safety. *Geriaction*, 15, 10-14.

⁴ Blue, C.L. (1996). Preventing back injury among nurses. *Orthopaedic Nursing*, 15, 9-22., & Videman, T., Nurminen, T., Tolas, S., Juorinka, I., Vanharanta, H., & Troup, J. (1984). Low back pain in nurses and some loading factors of work. *Spine*, 9(4), 400-404.

⁵ Occupational Safety and Health Administration, 1999.

Patient Moving Legislation in other States

States have begun to pass legislation regarding patient handling in hospitals and nursing homes. Last July, Texas was the first state in the nation to require hospitals and nursing homes to implement safe patient handling and movement programs. California, Massachusetts, and New York are considering bills that address patient handling in differing ways. Ohio recently created a program that provides nursing homes interest free loans to implement a no-manual-lift program. Most recently Washington passed a law similar to HB 1177. The Washington bill provides a tax credit for hospitals to comply with the law, which is not included in HB 1177. The maximum tax credit for each hospital is \$1,000 for each acute care inpatient bed.⁶

C. SECTION DIRECTORY:

Section 1. – Creates s. 381.029, F.S., to require hospitals and nursing home governing bodies to create and implement a program to decrease injury to nurses and patients.

Section 2. – The effective date of the bill is July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

FISCAL IMPACT ON AHCA/FUNDS:

	FTE	Amount Year 1 FY 06-07	Amount Year 2 FY 07-08
Expenditures:			
Health Services & Facilities Consultant			
Total Salary and Benefits Expenses	1.0	\$51,326	\$51,326
Professional Staff			
Total Expenses	1.0	\$10,940	\$10,940
Human Resources Services			
Total Human Resources Services		\$393	\$393
Total Recurring Expenditures	1.0	<u>\$62,659</u>	<u>\$62,659</u>
Sub-Total Non-Recurring Expenditures		\$2,610	\$0
Sub-Total Recurring Expenditures		\$62,659	\$62,659
Total Expenditures	1.0	\$65,269	\$62,659

⁶ House Bill 1672 passed the Washington Legislature March 7, 2006.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Nursing homes and hospitals will incur costs to implement the provisions in the bill. It is possible that the affected facilities may pass on the costs to their patients. The provisions in the bill may decrease back injuries in nursing homes and hospitals, thus, decreasing workers compensation payments and decreasing costs related to time away from work due to injury.

D. FISCAL COMMENTS:

According to the Agency for Health Care Administration (AHCA), one Health Services and Facilities Consultant, Pay Grade 24, full time employee (FTE) would be needed by AHCA for rule promulgation, setting up a format for the annual reports, collecting the reports, reviewing the reports, and entering the data into a format for internal reports or for the public. The total expenditures for FY 06-07, including salary, benefits, and taxes, will be \$65,269 and \$62,659 for FY 07-08.

According to AHCA, the proposed bill implies that AHCA may get complaints about violations of the requirements so there may be a potential increase in complaints and investigations affecting the Complaint Administration Unit and the field offices of the Division of Health Quality Assurance in the Agency, as well as the Office of the General Counsel.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not require counties or municipalities to spend funds or take action requiring the expenditure of funds. This bill does not reduce the percentage of state tax shared with counties or municipalities. This bill does not reduce the authority that municipalities have to raise revenue.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill provides rulemaking authority to the Agency for Health Care Administration (AHCA) to carry out the provisions in the bill. However, ch. 381, F.S., is not a licensing statute for nursing homes or hospitals and AHCA may not be able to promulgate rules or enforce the bill. The bill should reference hospital and nursing home licensing statutes chapters 395 and 400, part II, F.S. respectively.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill references "nurses" several times in the bill, however, nurses are not the only staff who handle and lift patients. Nursing aides and orderlies do the majority of patient lifting. The scope of staff included in the bill also should be expanded to include all staff involved in lifting and moving patients.

[See B. RULE-MAKING AUTHORITY]

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES